

LIZARDI, ASARO, COLON RIVERA, ACOSTA, RUIZ, GREENBERG, RUSCIO, ASARO, and AVILA, among others, have been identified during this intercept functioning as either interim drug suppliers to the organization (while they wait for the multi-kilogram shipments from Mexico to resume), or drug customers of the organization based upon investigatory efforts to date.

53. The following recitation of evidence adduced during this investigation establishes, I submit, the requisite probable cause to arrest the aforementioned target subjects, and search the identified target locations.

1. March 20, 2003: CS1 and ROSALES

54. A cooperating source (CS1) provided information regarding the narcotics trafficking activities of ROSALES and an second Hispanic male, a close associate of ROSALES named "Jose Abreu." Thereafter, at the direction of law enforcement, CS1 contacted ROSALES to arrange the purchase of cocaine from ROSALES.³² On March 20, 2003, at approximately 12:37 p.m., CS1 was instructed to call Jose ROSALES and arrange to purchase two (2) ounces of cocaine from ROSALES. CS1 placed a call to (781) 985-5367 and spoke with ROSALES. CS1 and ROSALES agreed to meet.

³² CS1 was arrested for possession with intent to distribute cocaine in 2003 and was attempting to obtain a sentence reduction for CS1's cooperation in this matter. CS1 became a documented confidential source for the Drug Enforcement Administration (DEA) on March 11, 2003. CS1 was deactivated as a DEA confidential source on June 29, 2003, as a result of a subsequent drug arrest and a positive drug test for the use of cocaine. CS1 is no longer being used in this matter.

ROSALES told CS1 to take as much as possible, which CS1 understood to mean that CS1 should take as much cocaine as possible, because he would not have anymore for seven days. This call was not recorded.

55. On March 20, 2003, at approximately 12:47 p.m., CS1 was instructed to place another call to ROSALES at (781) 985-5367. CS1 and ROSALES agreed on a meeting place and the time of the meeting. CS1 understood that the cocaine would be exchanged at the meeting. This conversation was consensually recorded.

56. On March 20, 2003, at approximately 2:00 p.m., CS1 and an undercover police officer (UC2) traveled to the pre-arranged location to meet with ROSALES. ROSALES and Abreu were observed arriving in the vicinity of the meet location in a green Lincoln Town Car (MA Reg. CI355H, registered to Jose Abreu). Abreu was the driver of the vehicle and ROSALES was the passenger. CS1 got into the green Lincoln Town Car and was driven a short distance away. According to CS1, ROSALES placed approximately 5 ounces of cocaine into a bag brought by CS1. CS1 paid ROSALES \$4,000, which was payment for prior cocaine which CS1 had purchased from ROSALES on an earlier occasion. During the transaction, ROSALES told CS1 that there wouldn't be "any" for a while because they were having trouble getting it from Mexico. CS1 understood that ROSALES was referring to cocaine and that ROSALES source of cocaine was Mexico. The green Lincoln Town Car then returned to

the original meeting place where UC2 was waiting for CS1 to return. Before exiting the green Lincoln, Abreu and ROSALES questioned CS1 about UC2 and remarked that CS1 should be careful because UC2 could be law enforcement. This transaction was consensually recorded and surveilled by myself and other agents.

2. March 4 and April 30, 2003: HAMDEN AND ROSALES

57. In January 2003, a second cooperating source (CS4) provided information that Abdallah HAMDAN was distributing multi-gram quantities of cocaine.³³ Based on information and assistance provided by CS4, on March 4, 2003, a police officer, acting in an undercover capacity (UC1), purchased an "eight ball" - approximately 3.5 grams of cocaine - from Abdallah HAMDAN. UC1 paid HAMDAN one hundred and fifty (\$150) dollars for the cocaine. During the narcotics exchange, HAMDAN gave UC1 pager number (617) 802-3184. UC1 understood from HAMDEN that UC1 could contact HAMDAN to obtain additional quantities of cocaine. This transaction was surveilled.

58. On April 30, 2003, UC1 received a call from HAMDAN. UC1

³³ CS4 was also an informant who had pending criminal charges and was attempting to receive a reduction in CS4's criminal charges. CS4 became a documented Massachusetts State Police informant in January, 2003 and provided reliable information which led to the arrest and conviction of approximately ten (10) persons, in addition to CS4's cooperation in this matter. CS4 provided information that Abdallah HAMDAN was distributing multi-gram quantities of cocaine. Based on information and assistance provided by CS4, an undercover officer, as discussed later in this Affidavit, was able to make numerous ounce and multi-ounce purchases of cocaine from HAMDAN. CS4's cooperation concluded in March, 2003, when CS4 received a CWOFF (continued without a finding) of the charges pending against CS4. CS4 is not willing to testify.

and HAMDAN agreed to meet at 5:00 p.m. UC1 believed that HAMDAN was going to deliver a quantity of cocaine to UC1. (This conversation was not consensually recorded.) At approximately 4:57 p.m., UC1 received another call from HAMDAN, during which HAMDAN changed the location of their meet. (This conversation was not consensually recorded.) A short time later, UC1 met with HAMDAN. HAMDAN entered UC1's vehicle and delivered approximately one (1) ounce of a white powder believed to be cocaine to UC1. UC1 paid HAMDAN \$1050. During the transaction, UC1 asked HAMDAN whether UC1 could purchase larger quantities. HAMDAN replied "no problem, I have plenty." (This transaction was consensually recorded and surveilled.)

59. After the deal was complete and UC1 had departed the lot, surveillance followed HAMDAN to a nearby parking lot and observed HAMDAN exit his vehicle and get into Abreu's green Lincoln Town Car (MA Reg. CI355H) which was already parked in the lot, and contained both Abreu and ROSALES. A minute later, HAMDAN exited Abreu's vehicle and departed the area. Surveillance then followed Abreu's green Lincoln a short distance to BOB'S STORE located on Route 1 in Saugus, MA. Abreu and ROSALES entered the store, were later observed paying for items with multiple \$100 dollar bills, then left the store. A police officer spoke with the cashier who had handled the ROSALES/Abreu transaction and was able to examine the two (2) \$100 bills that

ROSALES and Abreu used to pay for their merchandise. Both bills matched the DEA serialization list documenting OAF (official agency funds) used by UC1 to purchase the ounce of cocaine from HAMDAN for \$1050 on April 30, 2003.

3. August 7, 2003: ROSALES, COLON RIVERA, and 46 Wyman Street, First Floor, Lynn, MA.

60. On August 7, 2003 at approximately 11:22 a.m., ROSALES received an incoming call from 617 953-1960, a telephone number subscribed to Cynthia Hoffens, 845 Clay Street, Manchester, NH, from "Tigueron," an Hispanic male who has since been identified as COLON RIVERA. COLON RIVERA asked ROSALES "where can we meet....at around 12 o'clock....where... to the white one." (the "white one" referring to 46 Wyman Street, Lynn, MA) ROSALES replied "Uh-huh." COLON RIVERA said, "it's going to be...three boxes...a half a box...and one lady...I'll bring what I owe you." ROSALES replied, "alright Tigueron." (COLON RIVERA's remark about "3 boxes...half a box...one lady" all refer, I believe, to different quantities of drugs: 3 boxes refers to 3 ounces of cocaine; a half a box refers to an ounce of cocaine; and one lady refers to an ounce of cocaine.)

61. At 11:29 a.m., ROSALES received a second call from COLON RIVERA. COLON RIVERA told ROSALES that he needed "another lady." (Meaning another 1/8 ounce of cocaine.) ROSALES replied, "so, there are going to be 2 (ladies) then?" COLON RIVERA replied, "there are going to be 2 lady in total, half a box, and

3 (boxes)." "Okay," answered ROSALES.

62. At approximately 11:53 a.m., ROSALES received a third call from COLON RIVERA. COLON RIVERA asked ROSALES whether he was "there already." (Meaning whether ROSALES's had arrived at the white house - 46 Wyman Street, Lynn, MA.) ROSALES said that he was on his way, to wait for him there, and that he'd be there in three (3) minutes. COLON RIVERA replied that he would meet ROSALES "in the back [of the building]."

63. At approximately 11:35 a.m. on August 7, 2003, surveillance agents took up position in the vicinity of 46 Wyman Street, Lynn, MA - the "white one." At approximately 11:40 a.m., agents observed two Hispanic males arrive at 46 Wyman Street in a brown colored Cadillac sedan (MA Reg. US41BD), turn into the driveway of 46 Wyman Street, and park at the rear of the house. Two Hispanic males - one was heavysset and observed carrying a white plastic bag containing something - exited the vehicle and entered the back door of 46 Wyman Street.

Surveillance of COLON RIVERA

64. At approximately 11:58 a.m., a burgundy Cadillac sedan (NH Reg. 1394249) was observed driving on Wyman Street and parking in front of 46 Wyman Street.³⁴ COLON RIVERA, wearing a

³⁴ NH Reg. #1394249 belongs to Cynthia Hoffens, 845 Clay Street, Apt 2, Manchester, NH - the same name and address of the subscriber for 617 953-1960, the facility that COLON RIVERA used to contact ROSALES on August 7, 2003 about buying drugs.

black tank top, exited the burgundy Cadillac, crossed the street, walked down the driveway of 46 Wyman Street, and sat down at a picnic table in the rear of 46 Wyman Street. At approximately 12:03 p.m., ROSALES' grey Mercury Sable (MA Reg. #US8280) was observed by surveillance agents drive down Wyman Street, pull into the driveway of 46 Wyman Street, and park in the rear of the residence.³⁵ COLON RIVERA got up from the picnic table, walked to the driver's side of the grey Mercury Sable, and engaged the driver of the Mercury Sable in conversation. Surveillance was interrupted briefly, but at 12:09 p.m., COLON RIVERA was seen exiting the driveway of 46 Wyman Street in the burgundy Cadillac and drive away.

Surveillance of ROSALES

65. At approximately 12:43 p.m., surveillance agents observed ROSALES exit 46 Wyman Street out the back door, enter his grey Mercury Sable, wait for several minutes at rear of the building, then drive the vehicle to the end of the driveway where he waited several more minutes. At 12:52 p.m., surveillance observed another Hispanic male exit the rear of 46 Wyman Street and join ROSALES on the passenger side of ROSALES's grey Mercury Sable. ROSALES then drove his vehicle onto Wyman Street and departed the area.

³⁵ A check with MA RMV confirmed that MA Reg #US8280 comes back to Jose ROSALES, 80 Sagamore Street, Lynn, MA.

66. Based on the drug related conversations between COLON RIVERA and ROSALES that occurred the morning of August 7, 2003 and the contemporaneous surveillance conducted at 46 Wyman Street, I believe that ROSALES met with COLON RIVERA (the driver of the burgundy Cadillac) outside the residence at 46 Wyman Street on August 7, 2003 to deliver drugs to COLON RIVERA that COLON RIVERA had been previously ordered from ROSALES ("3 boxes...half a box...one lady) during intercepted conversations over target telephone # 2 that day.

4. August 12-13, 2003: ROSALES, MARTINEZ, AVILA, and 829 Washington Street, Lynn, MA (Giovanni's BMW Auto Body)

67. On August 12, 2003 at approximately 6:22 p.m., MARTINEZ received a call from AVILA (781 354-0756). AVILA asked MARTINEZ if his "work" had arrived yet and whether he had more than 1 kilogram of cocaine to sell - "you only have the other one (kilogram), right?" MARTINEZ replied, "Yeah, only...that's the only thing (1 kilogram) left, yeah." AVILA repeated, "You only have one right...don't you have anything else?" "Only that one," answered MARTINEZ. (Confirming with AVILA that MARTINEZ had just 1 one kilogram of cocaine to sell.) AVILA then asked MARTINEZ if he wanted to meet the next day and do the deal. MARTINEZ replied, "Yeah, no problem...when?" "We'll do it tomorrow then," countered AVILA. "In the morning," said MARTINEZ. Before ending the call, however, AVILA remarked, "find out if you can get two (2) for me." MARTINEZ replied, "I can't promise you anything,

but I'm going to try...but I'll see you in the morning anyway."
"Okay," said AVILA, "try." (In other words, AVILA wanted MARTINEZ to "try" to find him another kilogram of cocaine to sell him the following day.)

68. On August 13, 2003 at approximately 10:28 a.m., AVILA called MARTINEZ (target telephone # 3) from 781 354-0756, the same number used the previous day. AVILA asked MARTINEZ if he was going to be "home" today. (Coded talk, I believe, whether MARTINEZ would be able to make the 1 (or perhaps 2) kilogram of cocaine sale to AVILA that day. MARTINEZ replied, "I'm out but I'm going to send you my brother." (Referring, I believe, to sending ROSALES to deliver the cocaine to AVILA.) "That's fine," remarked AVILA. When MARTINEZ asked AVILA if he was going to be around, AVILA replied, "yes I'm close by." "Cool then," remarked MARTINEZ. AVILA asked MARTINEZ to bring him "2 small coffees." MARTINEZ said that he would.

69. Approximately one (1) minute later at approximately 10:29 a.m., MARTINEZ contacted ROSALES. MARTINEZ told ROSALES that "you have to go and see this guy." ROSALES asked "who." MARTINEZ answered "uh...the painter" - referring to AVILA's nickname and profession, auto body painter. ROSALES remarked, "he's close by here." (80 Sagamore Street, ROSALES home, is around the corner from Giovanni's BMW Auto Body.) MARTINEZ also told ROSALES, "but listen....bring him 4 small coffees, I mean

medium...I mean he asked me for these." ROSALES replied, "is he already there?" (Referring to whether AVILA was at his auto body shop.) "Yes," remarked MARTINEZ. ROSALES answered, "that's cool...I'll stop by in a little bit." ROSALES then asked MARTINEZ whether AVILA was going to give him money for the drugs - "he's not going to give me anything, right?" "No," remarked MARTINEZ, "he'll give it to me afterward and if he gives it to you, that's fine." ("It" being a coded reference to the purchase money AVILA would owe MARTINEZ for the cocaine.) ROSALES replied, "okay man, that's fine...bye."

Surveillance of ROSALES to Giovanni's BMW Auto Body

70. On August 13, 2003 at approximately 10:51 a.m., surveillance observed ROSALES depart the parking lot at 80 Sagamore Street (ROSALES home) driving his grey Mercury Sable (US8280) and drive south on the Lynnway to a Honey Dew Donut shop. Without going in, ROSALES quickly departed the Honey Dew Donut shop and went, instead, to Dunkin Donuts across the street. After leaving Dunkin Donuts, ROSALES drove to Giovanni's BMW Auto Body at 892 Washington Street in Lynn. ROSALES exited his vehicle and entered Giovanni's Auto Body. At approximately 11:10 a.m., ROSALES exited Giovanni's Auto Body, re-entered the grey Mercury Sable and drove back to 80 Sagamore Street.

71. On August 13, 2003 at approximately 12:00 noon, MARTINEZ called AVILA to ask if ROSALES had shown up and

delivered the cocaine. AVILA replied, "yeah, he stopped by." "Stopped by," asked MARTINEZ, "the coffee guy?" (Referring to ROSALES.) AVILA replied, "uh-huh, he gave me the coffees and I gave...." (Based on this exchange, I believe, that ROSALES not only delivered coffee to AVILA but cocaine as well.) Later in the conversation, MARTINEZ asked AVILA if AVILA had talked to his "friend regarding that thing." (MARTINEZ was asking AVILA, I believe, whether one of AVILA's customers had paid up for a previous drug sale and, if so, when MARTINEZ was likely to be paid.) AVILA replied that "the asshole is on vacation," that he had called him "2 times already," but that he was "coming back on Friday." Before hanging up, AVILA asked MARTINEZ, again, about the prospects of getting more cocaine - "Okay, do you think you could get me some more coffee?" (Coffee being a convenient code name for cocaine.) MARTINEZ replied, "well...uhm...let me make some phone calls and I'll let you know." (Whether MARTINEZ could come up with more drugs for AVILA.) "Okay, okay, replied AVILA.

72. Later that evening, at approximately 5:54 p.m., ROSALES called MARTINEZ. During their conversation, ROSALES asked MARTINEZ "the stuff from the morning (referring to the drug money that he collected from AVILA at Giovanni's BMW Auto Body), should I put it together with yesterday's (money)." MARTINEZ replied, "put it together with the one from *El Bueno* (the good guy) and *El Pintor* (the painter, or AVILA). That goes together." ROSALES

replied, "what about the one from *El Cock*?" MARTINEZ answered, "the one from this guy and the other one, no...just put the names on it and I'll take care of that later." "Okay, man, replied ROSALES, "so that I know." (MARTINEZ was discussing the collection of drug proceeds from three (3) of his customers -- one of whom was the "painter," AVILA - and giving instruction to ROSALES about which money to combine with other money. In the end, MARTINEZ directed ROSALES simply to bundle the money by customer and he'd take care of it later.)

5. August 13, 2003: ROSALES and RUIZ

73. On August 13, 2003, at approximately 7:04 p.m., ROSALES called Carlos RUIZ at (978) 509-1775. ROSALES asked RUIZ, "how much did you give me yesterday?" RUIZ explained, "I gave you the 25, plus 10...plus another 12 and $\frac{1}{2}$." RUIZ further explained "I paid you for one (1)...for a whole one, plus the half and plus 10, which was from the check that I cashed for Valentin." (I believe that this conversation involved RUIZ' payment for a cocaine purchase from ROSALES that occurred the previous day. I also believe that the reference to "25," "12 $\frac{1}{2}$ " and "10" were veiled references to dollar amounts in thousand dollar increments, and that the reference to "a whole one, plus the half" referred to one kilogram of cocaine and 1/2 kilogram of cocaine.)

6. August 19, 2003: ROSALES and GREENBERG

74. On August 19, 2003, at approximately 10:03 a.m., ROSALES received a call from Howard GREENBERG calling from 781 289-1702, a number subscribed to H&G Apartments, d/b/a Howard Greenberg, 677 Revere Beach Blvd, Revere , MA. After GREENBERG identified himself to ROSALES - "it's Howie" - ROSALES asked him what he wanted. GREENBERG replied, "bring me a half...in an hour or so." ("a half" referring to a quantity of cocaine, perhaps a half an ounce.) ROSALES told GREENBERG that he'd be there in an hour.

Surveillance of ROSALES to 677 Revere Beach Blvd

75. In response to this conversation between ROSALES and GREENBERG, surveillance set up on 80 Sagamore Street, ROSALES' apartment house at 10:15 a.m., as well as at 677 Revere Beach Blvd. in Revere. At 11:28 p.m., surveillance observed ROSALES exit 80 Sagamore Street, enter his grey Mercury Sable (MA Reg. US 8280), and drive off in the direction of the Lynnway/south. ROSALES exited at the Point of Pines off ramp and, at 11:45 a.m., ROSALES drove to 677 Revere Beach Blvd. where he parked his vehicle. After exiting the car, ROSALES entered 677 Revere Beach Blvd., remained inside for 3 minutes (presumably meeting with GREENBERG and selling him drugs), exited the residence, and returned to his vehicle. ROSALES then drove off having completed the errand with GREENBERG.

7. September 3, 2003: ROSALES, MARTINEZ, GARCIA, and 46 Wyman Street, First Floor, Lynn, MA

76. On September 3, 2003, at approximately 5:16 p.m., ROSALES received an incoming call from MARTINEZ. MARTINEZ asked ROSALES if he "could get 'two little engines' out of it." (In other words whether ROSALES could dilute a kilogram of cocaine to make two (2) kilograms of cocaine.) After ROSALES told MARTINEZ that he could, MARTINEZ directed ROSALES that "the rest should be carefully put away," and that ROSALES should "call...when you're ready." ROSALES replied, "so, should I make it?" "Yeah," said MARTINEZ, "he has it..so make it over there and call me when its ready...so I can send you this freaking...the referee with all the credentials." (Referee referring to a MARTINEZ cocaine customer.) "Fine," said ROSALES.

77. On September 3, 2003, at approximately 5:27 p.m., ROSALES spoke with Rogelio GARCIA. ROSALES asked GARCIA if he had "one book there." ("one book" being a reference to one kilogram of cocaine.) GARCIA replied, "yes." ROSALES countered, "bring it down...I'm about to get there now...we'll see each other there." "Okay, " replied GARCIA. (ROSALES was about to meet with GARCIA to collect a kilogram of cocaine.)

78. On September 3, 2003, at approximately 5:47 p.m., ROSALES spoke with MARTINEZ again. ROSALES told MARTINEZ that he "had the engines (referring to the newly prepared two kilograms of cocaine) ready now." MARTINEZ asked whether they were "separate...it's a twin turbo?" ROSALES replied that they were.

("Separate" and "twin turbo" being additional references to ROSALES' manufacture of two kilograms of cocaine from one kilogram.) ROSALES also remarked that "the shit (cocaine) smells a lot like holy water." MARTINEZ directed ROSALES to "let it dry out for awhile...then call me when you think it's okay so I can send someone (to get the two kilograms of cocaine)." (From experience, I know that freshly "cut" or diluted cocaine is wet after mixing and needs time to dry out. When ROSALES asked MARTINEZ "separate?" MARTINEZ replied, "separate, but you know...you understand me...so that the blessing goes away." (ROSALES was asking whether MARTINEZ wanted a single kilogram or both kilograms of cocaine delivered to him.)

79. On September 3, 2003, at approximately 7:18 p.m., ROSALES spoke with MARTINEZ. ROSALES told MARTINEZ that he could send someone to collect the cocaine. "It's all set but, Uhm...besides the fact that it's smelly..it's very soft." MARTINEZ replied, "ah, there's no problem....try not to...that's *their* problem." After that MARTINEZ told ROSALES that "he'll be over." (Referring to the prospective drug customer.) "Fine," remarked ROSALES.

Surveillance of GARCIA

80. At approximately 5:30 p.m. on August 3, 2003, surveillance agents located near 46 Wyman Street, Lynn, MA observed a red Mercury Mountaineer (MA Reg. CI344W) parked in the

driveway of 46 Wyman Street. Previous surveillances of this vehicle identified GARCIA as the operator of the vehicle. At the same time, agents observed ROSALES driving his grey Mercury Sable station wagon along Wyman Street, then park in the drive away of 46 Wyman Street. (Agents were unable to see whether or not ROSALES actually exited the vehicle, whether he remained in the vehicle, or whether GARCIA, or some other person exited 46 Wyman Street and met with ROSALES.)

81. At approximately 8:58 p.m., agents observed a blue Chevrolet Lumina (MA Reg. 7799WB) operated by a unidentified male, park in the driveway of 46 Wyman Street. (Agents could not see whether or not anyone exited the vehicle due to darkness.) Approximately four minutes later at 9:02 p.m., the blue Chevrolet Lumina departing the 46 Wyman Street.

82. Based on the intercepts between MARTINEZ, ROSALES, and GARCIA and related surveillance during this time period, I believe that ROSALES called GARCIA to confirm that GARCIA had one kilogram of cocaine at that location ("1 book"), then went to 46 Wyman Street at 5:30 p.m. to meet with GARCIA and, per MARTINEZ's order, to "step on" the aforementioned kilogram cocaine for the purpose of making two (2) kilograms of cocaine ("engines"/"twin turbos"). After ROSALES had completed his assignment, he called MARTINEZ from 46 Wyman Street to report that the kilograms of cocaine were still wet after the process, prompting MARTINEZ to

tell ROSALES to wait for them to dry. At 9:00 p.m. with the arrival and quick departure of the blue Chevrolet Lumina at 46 Wyman Street, ROSALES, perhaps, completed the sale of the drugs to the customer that MARTINEZ had indicated would "be over."

8. September 13, 2003: ROSALES and RUSCIO

83. On September 13, 2003, at 6:32 p.m. RUSCIO called ROSALES at target telephone # 6 to say that he had "an envelope for Valentine (referring to Valentin MARTINEZ)" and whether ROSALES wanted to collect it that night or for RUSCIO to wait and give it to MARTINEZ on "Monday." ROSALES first asked RUSCIO if needed "a seven" (referring to the sale of, I believe, 7 grams or 7 ounces of cocaine), then told RUSCIO that he would take the money "cause that's (the money) mine." RUSCIO assured ROSALES that he had all the money in hand "plus tonight's also." (Meaning that he could pay ROSALES what he owed him for a prior sale and what he owed for the distribution that night.) "Give me like 40 minutes," replied ROSALES. (Meaning that he would make the delivery to RUSCIO in 40 minutes.)

9. September 18, 2003: ROSALES, RUSCIO, and 62 Jefferson Avenue, Salem, MA

84. On September 18, 2003, at 2:43 p.m. ROSALES over target telephone # 6 received a call from RUSCIO at Bob's Carburetor - 978 744-1441. RUSCIO asked ROSALES "can you come to the shop with 7." ROSALES said "alright, I just want you to let you know ...cause I got different stuff...this stuff is yellow...but I got

2 little ones." (RUSCIO, again, referred to a drug order of either 7 grams or 7 ounces of cocaine, but learned from ROSALES that he would be purchasing from a different supply of cocaine; cocaine that was yellow in color.) RUSCIO replied, "give me those." "Alright," answered RUSCIO. (RUSCIO also asked if ROSALES could deliver the drugs "to the shop," referring to Bob's Carburetor/Bob's Auto Sales at 62 Jefferson Avenue, Salem, MA.)

**10. September 19, 2003: MARTINEZ, ROSALES, MADERA, Ricardo
MARTINEZ, 83 Story Street, Newburyport, MA re: MARTINEZ'
departure to Mexico**

85. On September 19, 2003, at approximately 7:35 p.m., ROSALES received a call from MARTINEZ. MARTINEZ asked ROSALES if "Ruth" had called him. (Ruth is "Ruth Saldivar," MARTINEZ's spouse.) ROSALES said that "Ruth" was with him. MARTINEZ explained that "I'm going to have to leave, man." ROSALES said that Ruth had already told him the news. (Based on this and other intercepts, agents learned on September 19, 2003 that MARTINEZ' mother had undergone surgery in Mexico and her health was failing prompting MARTINEZ to make plans to go to Mexico to be with his mother.) MARTINEZ then told ROSALES that "I'm putting you in charge of the kid...you know fixing that ...do you understand me?" "Yes, yes," replied ROSALES, "she told me [that] already. (MARTINEZ' directive that ROSALES would be "in charge" in

MARTINEZ's absence, indicates, I believe, that ROSALES would be handling the overall, day-to-day operation - drugs and finances - of MARTINEZ' drug distribution organization in his absence.) After listing several things MARTINEZ wanted ROSALES to do for him while MARTINEZ was away (bill paying, etc.), ROSALES asked MARTINEZ about the "beeper that belongs to the tribe....nobody beeps you, right?" (MARTINEZ was cut off before he could reply, however ROSALES interest in the "tribe" beeper is further evidence of this organization's (the tribe) drug activities.)

86. On September 19, 2003, at approximately 7:42 p.m., ROSALES heard from MARTINEZ again. MARTINEZ again confirmed with ROSALES that "Ruth" had explained to ROSALES about his promotion running the organization in MARTINEZ's absence. MARTINEZ then informed ROSALES that "I'll be talking to you to see...you know, what needs to be done there."

87. Later on during the same conversation, MARTINEZ reminded ROSALES about a "notebook that I carry around sometimes ...in that little case, at the end there's a list..there you have the recipe to make the *pozole* (a Mexican stew)...names, and everything...the spices ...so when she (meaning Ruth) goes over there, have her give it to you so that...you can go over it, that way it won't come out with a sour taste....do you understand me...so once you go over it you'll have more or less an idea on how to do it next time so you'll know how to do it" ROSALES

replied "yes, I know." (After informing ROSALES of his new responsibilities, MARTINEZ directed ROSALES to get the "notebook" from Ruth Saldivar (spouse) located at MARTINEZ' home at 83 Story Street, Newburyport, MA that contained the names and numbers of MARTINEZ' clients that ROSALES needed to operate the organization in MARTINEZ' absence. MARTINEZ reference to "recipe," "pozole," "spices," and "sour taste" were, I believe, coded references to the customers, places, prices, and other aspects of the MARTINEZ drug organization.)

88. Before hanging up, MARTINEZ told ROSALES, "so...well, I don't know what else to tell you now...I'll talk to you tomorrow." ROSALES replied, "alright man. I'll be waiting, man." MARTINEZ went on, "So if anything, any doubt, or something...I'll buy a cellular phone upon [my] arrival [in Mexico]...and then I'll give it (the telephone number) to you and I'll keep in touch with you...so, give me a call if anything happens, but I'll call you tomorrow before I leave." ROSALES replied, "alright...okay, that's fine, man."³⁶

³⁶ During the same conversation, MARTINEZ asked ROSALES if he could speak with "Chori", referring to "Chorizo," or Ricardo MARTINEZ. ROSALES complied and handed the telephone to Ricardo MARTINEZ. During the conversation between MARTINEZ and Ricardo, MARTINEZ, MARTINEZ explained that their mother (brothers) was in "stable condition after the operation but they wanted me to go over there [to Mexico]....so now I will, since they asked me to go I'll go...I'll take off tomorrow morning [by plane]...so get organized with "Tono" [a/k/a ROSALES] and if there's a need...." Ricardo then asked MARTINEZ how long he would be away." MARTINEZ replied, "I don't know, maybe 15 days, one month, I don't

89. Twenty minutes later on September 19, 2003 at 8:00 p.m., MARTINEZ spoke with MADERA. MARTINEZ told MADERA that he was leaving for Mexico immediately to be with his ill mother and that he had left "Tono" (ROSALES) in charge of the drug operation. ("I left him, you now, the thing.") MARTINEZ explained that ROSALES was also "in charge of collecting what's around and then put it together with what CHON has and with what the other faggot has to turn in." (In other words, ROSALES needed to collect drug proceeds from drug customers who owed the organization money and to combine it with money that CHON owed MARTINEZ from other transactions.)

90. On September 20, 2003 at approximately 10:33 a.m., MARTINEZ called ROSALES. ROSALES explained that he would "have to go to your house (83 Story Street) because Ruth forgot to bring me the notebook last night." (Apparently, the same "notebook" that MARTINEZ told ROSALES to get during their conversation the night before.) ROSALES explained further that Ruth had thought it was "lying on the bed...and it's not there...so we look in the drawers and the only thing we found was

know...so help Tono (i.e. ROSALES] with that and help us with the payment of the houses, the checks, and all that." (MARTINEZ brief conversation with Ricardo underscored their relationship and the fact that Ricardo and ROSALES would work together to assist MARTINEZ with the running of his drug distribution organization in his absence. It also described the reasons for MARTINEZ' abrupt departure to Mexico and his anticipated length of stay away from Massachusetts - maybe 15 days, one month."

a black one." After MARTINEZ confirmed with ROSALES that it was "a black small one," ROSALES understood which "notebook" to look for.

11. September 20, 2003: ROSALES, ACOSTA, and 115 Alley Street, Lynn, MA

91. On September 20, 2003, at approximately 9:53 a.m., ROSALES received a call from ACOSTA. ACOSTA told ROSALES that he would call ROSALES in about an hour and 15 minutes "so we can go somewhere else...so you can take me over to Boston Street." (to, I believe, carry out a drug transaction between them.) ROSALES replied that he would wait for ACOSTA 's call. ACOSTA reiterated that he would call ROSALES so that they could meet and that ROSALES could take ACOSTA to Boston Street.

92. At approximately 11:03 a.m., ROSALES heard from ACOSTA again. ACOSTA told ROSALES that he had gotten ROSALES a "Yamaha around here." (Yamaha being a coded reference to a quantity of cocaine.) ROSALES asked if that was the only one he had. ACOSTA replied that it was the only one for now, but that by evening or the next day, "I'll be doing better...I just got this thing for you around there, so that you can take care of things for now." ROSALES replied that he would call ACOSTA when he was closer.

93. At approximately 11:36 a.m., ROSALES received a call from ACOSTA. ROSALES told ACOSTA that he would be there in 15 to 20 minutes at a location "...where we've met yesterday." "At the red one" asked ACOSTA? ("red one" referring to 115 Alley Street,

Lynn, MA.) ROSALES said that he would take care of ACOSTA "this afternoon." ACOSTA replied, "alright them. We'll talk over there."

94. At approximately 11:54 a.m., ROSALES heard from ACOSTA again. ACOSTA asked ROSALES if he was almost there. ROSALES replied that he would be there in 3 or 4 minutes. ACOSTA said that he would be waiting outside for ROSALES.

Surveillance of ACOSTA

95. At approximately 11:59 a.m., surveillance agents observed ROSALES arrive at 115 Alley Street in Lynn, MA driving the his grey Mercury Sable station wagon (MA Reg. US 8280). ROSALES remained inside his vehicle until 12:02 p.m. when a blue Plymouth Voyager van (MA Reg. 1124YV) pulled up near to ROSALES' vehicle and parked. ROSALES and the operator of the Plymouth van, an Hispanic male, exited their vehicles and entered 115 Alley Street together (presumably to complete their just discussed drug transaction.) Surveillance agents identified the Hispanic male as ACOSTA.

12. September 20-21, 2003: ROSALES, MARTINEZ, and GARCIA

96. On September 20, 2003, at approximately 6:50 p.m., ROSALES received a call from MARTINEZ. MARTINEZ asked ROSALES if "Lacuija" (referring to GARCIA) was with him. ROSALES said "no." MARTINEZ asked ROSALES to call GARCIA because "he's (GARCIA) got a...how can I say this...a little notebook...with numbers and

things from the girls...the ones from the cheerleading team...check them out so you'll know what he is up to...because he did something with a relative of his...with Coco-Colo (i.e Carlos RUIZ), with Memin, with Billy, but I want you to check that out so that you can keep control of that as well." ROSALES told MARTINEZ that he would call GARCIA. (This conversation followed the previous directive from MARTINEZ to ROSALES for him to handle all business/drug matters while MARTINEZ was in Mexico.)

97. Three minutes later at approximately 6:53 p.m., ROSALES, following MARTINEZ' order, called GARCIA and told him that he needed him "to come down here, man and bring down the girl's notebook...I'm here at the Peluche's house (46 Wyman Street, Lynn, MA; Pelacz is one of the names on the mailbox for Apt. #1). "Okay," replied GARCIA. (ROSALES dispatch of GARCIA to MARTINEZ' house to collect MARTINEZ's notebook (containing, I believe, client names and addresses) was to enable ROSALES to operate MARTINEZ' drug business in his absence.)

13. September 21, 2003: ROSALES, MARTINEZ, and 62 Jefferson Avenue, Salem, MA (Bob's Carburetor/Bob's Auto Sales)

98. On September 21, 2003, at approximately 3:49 p.m., ROSALES heard from MARTINEZ who was calling from Mexico. "Listen," said MARTINEZ, "buy yourself a pre-paid cellular phone...because it's too expensive for me to be calling you there." ROSALES said he would. MARTINEZ went on, "Uh, go see

Chapparo at El Quetzal restaurant..and tell him to give you some money he has to give to me...it's six pesos (i.e. \$6000)...if not, call me..if not go to the dealership and underneath the desk...way down there...there's a little paper glued down there and you'll find his name written down there, it says "Chapparo" and the amount is there as well." "Okay," replied ROSALES." (In MARTINEZ' absence, ROSALES was directed to meet with a customer of MARTINEZ, *Chapparo* (a/k/a Carlos Arquette, owner of the "El Quetzal" Restaurant), and collect money from a previous drug transaction with MARTINEZ. (Apparently, if *Chapparo* was not forthcoming with the money owed MARTINEZ, MARTINEZ directed ROSALES to go to the "dealership" (referring to Bob's Carburetor/Bob's Auto Sales) and look for the exact amount stuck under the desk in the office at 62 Jefferson Avenue, Salem, MA - a location where MARTINEZ, ROSALES, CHON, SACAIDA, RUIZ, RUSCIO, and others have frequented between August 2003 and the present time.)

14. September 25, 2003: ROSALES, MADERA, CHON, GARCIA, and 46 Wyman Street, Lynn, MA

99. On September 25, 2003, at approximately 11:45 a.m., ROSALES received a call from MADERA. MADERA asked ROSALES what he was doing. ROSALES replied that he was "just doing the numbers." (A reference to calculating monies owed/earned as part of his drug activities.) MADERA asked ROSALES if he had talked with "Vale." (Referring to Valentin MARTINEZ.) ROSALES